

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-809V

UNPUBLISHED

MARTHA T. CUNNINGHAM,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 7, 2022

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Tetanus Diphtheria
acellular Pertussis (Tdap) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

John C. Smith, Smith and Smith PLLC, Tucson, AZ, for Petitioner.

Jennifer A. Shah, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On January 28, 2021, Martha T. Cunningham filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (SIRVA), resulting from a tetanus diphtheria acellular pertussis (Tdap) vaccination she received on January 30, 2019. Petition at 1. Petitioner further alleges that the vaccination was administered within the United States, her injury has persisted for more than six months, and neither she, nor any other party, has ever filed any action, or ever received compensation in the form of an award or settlement for her vaccine-related injury. Petition at ¶¶ 1, 6. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On October 28, 2022, Respondent filed his Rule 4(c) report in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, Respondent determined that "[P]etitioner has satisfied the criteria set forth in the Table and the Qualifications and Aids to Interpretation ("QAI") for SIRVA . . ." *Id.* at 5. Respondent further agrees that Petitioner received her vaccination in the United States, she suffered the residual effects or complications of her injury for more than six months after vaccine administration, and that there is no evidence of a factor unrelated that is a more likely cause of Petitioner's injury." *Id.*

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master